(39)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

CORAM : HON'BLE SHRI S.R.NAYAK, CJ.
HON'BLE SHRI V.K.SHRIVASTAVA, J.

Misc. Appeal No. 341 of 2005

APPELLANT/ INSURER — National Insurance Co. Ltd., Through Assistant Manager, National Insurance Co. Ltd. B-1, Taha Complex, Ist Floor Ring Road, Priyadarshini Nagar, Bilaspur, Tahsil and Dist. Bilaspur (Chhattisgarh).

Versus

RESPONDENT/ DRIVER

1. Jaswant Singh, S/o Shri Shiv Sagar, Aged about 24 years, R/o Sakti Nagar, Near Pal Pan Bhandar, Bhilai-3, Distt. Durg (Chhattisgarh).

RESPONDENT/ OWNER

2. Shiv Sagar Singh, S/o Shri Chandan Singh, Aged about 60 years, R/o Shantipara, Near Bus Stand, Singh Welding Works, Bhilai-3, District Durg (Chhattisgarh).

3. Hemant Tandon, S/o Shri Sundar Lal Tandon, R/o village Surgi, Tahsil and District Rajnandgaon (Chhattisgarh).

RESPONDENT/ CLAIMANT

4. a) Smt. Sema Khandelwal, Wd/o Late Satish Chandra Khandelwal, Aged about 38 years.

b) Ku. Shilpa Khandelwal, D/o Late Satish Chandra Khandelwal, Aged about 16 years.

c) Himanshu Khandelwal, S/o Late Satish Chandra Khandelwal, Aged about 12 years.

Respondents 4(b) & (c) being Minors through legal guardian - mother Smt. Sema Khandelwal, Wd/o Late Satish Chandra Khandelwal.

Respondents 4(a) to (c) all R/o C/o D.K. Gupta, National Freight Carriers, 324/4, Vijay Bhawan, Behind Bank of Maharashtra,

Central Avenue, Nagpur-2 - 440 002 (M.S.).

Present :- Shri Sanjay K. Agrawal, learned counsel for the appellant.

ORAL ORDER
(Dated 9th November, 2006)

The following oral order of the Court was passed by **S.R. Nayak, C.J.**

The only contention of learned standing counsel for the Insurance Company is that since the driver of the motor vehicle involved in the accident did not have valid and effective driving license, the MACT is not justified in fastening the liability on the Insurance Company to pay compensation. Although such a plea was taken in the written statement filed by the Insurance Company, admittedly, the Insurance Company did not adduce any evidence to substantiate that plea.

It is well settled that unless the Insurance Company pleads and proves such plea, it cannot be exonerated from the liability to pay compensation to victims of the accident. There is no merit in the appeal. The appeal is, therefore, dismissed. No costs.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Chief Justice

Raju